

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
ERIE DIVISION**

DAD'S PRODUCTS COMPANY, INC.,)	
)	
)	Civil Action No. 03-350
Plaintiff,)	
)	
v.)	
)	The Honorable Sean J. McLaughlin
SERGEANT'S PET CARE PRODUCTS, INC.)	
)	
Defendant.)	

**DEFENDANT'S MOTION FOR SUMMARY JUDGMENT PURSUANT TO
RULE 56 OF THE FEDERAL RULES OF CIVIL PROCEDURE**

Defendant Sergeant's Pet Care Products, Inc. ("SPCP"), by and through its undersigned counsel, files this Motion for Summary Judgment Pursuant to Rule 56 of the *Federal Rules of Civil Procedure*. For all of the reasons set forth fully in SPCP's Memorandum in Support of Motion for Summary Judgment Pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, which is incorporated herein in full by reference, this Court should grant summary judgment in favor of SPCP on all of Plaintiff's claims against it.

Dated: September 26, 2005

Respectfully submitted,

By:/s/ David White, Esquire _____
David E. White
THORP REED & ARMSTRONG, LLP
Pa. I.D. No. 59659
One Oxford Centre
301 Grant Street, 14th Floor
Pittsburgh, PA 15219
(412) 394-2343
Attorneys for Defendant
Sergeant's Pet Care Products, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion for Summary Judgment Pursuant to Rule 56 of the *Federal Rules of Civil Procedure* has been served upon counsel of record this 26 day of September, 2005 by U.S. Mail, first class, postage prepaid, as follows:

Richard A. Lanzillo, Esq.
Neal Devlin, Esquire
Knox McLaughlin Gornall & Sennett, P.C.
120 West Tenth Street
Erie, PA 16501-1461

/s/ David White, Esquire

David E. White